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Part 1

BRIDGE ADMINISTRATION TRANSFER ACT

JULY 25, 1989.—Ordered to be printed

Mr. JONES of North Carolina, from the Committee on Merchant Marine and Fisheries, submitted the following

REPORT

[To accompany H.R. 1755]

[Including cost estimate of the Congressional Budget Office]

The Committee on Merchant Marine and Fisheries, to whom was referred the bill (H.R. 1755) to transfer administration of bridges and causeways over navigable waters from the Secretary of Transportation to the Secretary of the Army, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Bridge Administration Transfer Act".

SEC. 2. TRANSFER OF AUTHORITY.

(a) IN GENERAL.—Administration of bridges and causeways over navigable waters is transferred from the Secretary of Transportation to the Secretary of the Army. The administration transferred includes all authorities for bridge and causeway approvals, drawbridge regulations, administration of bridge alterations, and all other related authority, functions, and duties concerning bridges and causeways over navigable waters otherwise exercised by the Secretary of Transportation except—

(1) administration of bridges and causeways in or over the Saint Lawrence Seaway; and

(2) authority to prescribe lights and other signals on bridges and causeways for the benefit of navigation.

(b) TRANSFER DATES.—The transfer of authorities under this section shall take effect one year after the date of the enactment of this Act, or on earlier dates the Secretary of the Army, in consultation with the Secretary of Transportation, prescribes and publishes in the Federal Register.

(c) NAVIGABLE WATERS DEFINED.—For purposes of this Act, the term "navigable waters" means waters that are subject to the ebb and flow of the tide, or that are used or susceptible to use in their natural condition or by reasonable improvement as a means of transporting interstate or foreign commerce.

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SEC. 3. PROCEDURE FOR TRANSFER.

(a) PERSONNEL, MONEY, PROPERTY, ETC.—(1) Before one year after the date of enactment of this Act, and as determined by the Director of the Office of Management and Budget in consultation with the Secretary of Transportation and the Secretary of the Army, the Secretary of Transportation shall transfer to the Secretary of the Army all—

(A) civilian employees and personnel positions,

(B) assets, liabilities, contracts, property, records, unexpended balances of appropriations, authorizations, allocations, and funds collected; and

(C) other resources and assets that the Secretary of Transportation has before then employed, controlled, or used for purposes of the administration transferred under section 2 of this Act.

(2) The transfer under this section shall be in accordance with section 3503 of title 5, United States Code, and shall not cause any employee to be separated or reduced in grade or compensation for at least one year after the date the employee is transferred to the Secretary of the Army. Appropriations and funds shall be transferred and accounted for in accordance with section 202 of the Budget and Accounting Procedures Act of 1950 (31 U.S.C. 1531).

(b) REGULATIONS.—

(1) IN GENERAL.—The Secretary of the Army may issue any regulations which may be necessary and appropriate to implement section 2.

(2) EFFECTIVE DATE.—Regulations issued by the Secretary of the Army under this subsection shall be effective on the effective date of the particular transfers implemented by the regulations.

(c) LEGAL RIGHTS AND DUTIES.—Except for substitution of the Secretary of the Army, officers, personnel, or agencies of the Department of the Army for the Secretary of Transportation, officers, personnel, or agencies of the Department of Transportation, section 2 of this Act does not affect approvals, notices, determinations, grants, contracts, permits or permit actions, regulatory actions, penalties or penalty actions, suits, or claims against or by the United States or officers, employees, representatives, or agencies of the United States, or other legal rights or duties relating to bridges and causeways over navigable waters. This subsection does not prohibit the Secretary of the Army from modifying, continuing, or discontinuing any legal rights or duties under the same terms and conditions and to the same extent as would have been lawful by the Secretary of Transportation.

SEC. 4. CONFORMING AMENDMENTS.

(a) EFFECT OF AMENDMENTS.—The conforming amendments in this section shall not affect the authorities being transferred under this Act until those authorities are transferred under section 2.

(b) AMENDMENTS TO THE RIVERS AND HARBORS APPROPRIATIONS ACT OF 1899.—The Act of March 3, 1899, known as the Rivers and Harbors Appropriations Act of 1899, is amended as follows:

(1) Section 9 of the Act (33 U.S.C. 401) is amended to read as follows:

"It shall not be lawful to construct or commence the construction of any bridge, causeway, dam, or dike over or in any port, roadstead, haven, harbor, canal, navigable river, or other navigable water of the United States until the consent of Congress to the building of such structures shall have been obtained and until the plans for the bridge, causeway, dam, or dike shall have been submitted to and approved by the Secretary of the Army. However, such structures may be built under authority of the legislature of a State across rivers and other waterways the navigable portions of which lie wholly within the limits of a single State, provided the location and plans thereof are submitted to and approved by the Secretary of the Army before construction is commenced. When plans for any bridge or other structure have been approved by the Secretary of the Army, it shall not be lawful to deviate from such plans either before or after completion of the structure unless modification of said plans has previously been submitted to and received the approval of the Secretary of the Army. In the case of a bridge or causeway in or over the Saint Lawrence Seaway, the authority in this section shall be exercised by the Secretary of Transportation instead of the Secretary of the Army. The approval required by this section does not apply to any bridge or causeway over waters that are not subject to the ebb and flow of the tide and that are not used and are not susceptible to use in their natural condition or by reasonable improvement as a means to transport interstate or foreign commerce.".

(2) Section 18 of the Act (3 U.S.C. 502) is amended to read as follows:

"(a) Whenever the Secretary of the Army shall have good reason to believe that any railroad or other bridge now constructed, or which may hereinafter be con-

structed, over any of the navigable waterways of the United States is an unreasonable obstruction to the free navigation of such waters on account of insufficient height, width or span, or otherwise, or where there is difficulty in passing the draw opening or the draw span of such bridge by rafts, steamboats, or other water craft, it shall be the duty of the Secretary of the Army, first giving the parties reasonable opportunity to be heard, to give notice to the persons or corporations owning or controlling such bridge so to alter the same as to render navigation through or under it reasonable free, easy, and unobstructed; and in giving such notice the Secretary shall specify the changes that are required to be made, and shall prescribe in each case a reasonable time in which to make them. If at the end of such time the alteration has not been made, the Secretary of the Army shall forthwith notify the United States Attorney for the district in which such bridge is situated, to the end that the criminal proceedings hereinafter mentioned may be taken. If the persons, corporation, or association owning or controlling any railroad or other bridge shall, after receiving notice to that effect, as hereinafter required, from the Secretary of the Army, and within the time prescribed by the Secretary willfully fail or refuse to remove the same or to comply with the lawful order of the Secretary of the Army in the premises, such persons, corporation, or association commits a class C misdemeanor, and every month such persons, corporation, or association shall remain in default in respect to the removal or alteration of such bridge, shall be deemed a new offense, and subject such persons, corporation, or association so offending to the penalties above prescribed.

"(b) No owner or operator of any bridge, drawbridge, or causeway shall endanger, unreasonably obstruct, or make hazardous the free navigation of any navigable water of the United States by reason of the failure to keep the bridge, drawbridge, or causeway and any accessory works in proper repair.

"(c) Whoever violates any provision of this section, or any order issued under this section, shall be liable to a civil penalty of not more than $1,000. Each day a violation continues shall be deemed a separate offense. No penalty may be assessed under this subsection until the person charged is given notice and an opportunity for a hearing on the charge. The Secretary of the Army may assess and collect any civil penalty incurred under this subsection and, in the Secretary's discretion, may remit, mitigate, or compromise any penalty until the matter is referred to the Attorney General. If a person against whom a civil penalty is assessed under this subsection fails to pay that penalty, an action may be commenced in the district court of the United States for any district in which the violation occurs for such penalty.

"(d) In the case of a bridge or causeway in or over the Saint Lawrence Seaway, the authority in this section shall be exercised by the Secretary of Transportation instead of the Secretary of the Army.".

(c) AMENDMENTS TO THE BRIDGE ACT OF 1906.—The Act of March 23, 1906, known as the Bridge Act of 1906, is amended as follows:

(1) Section 1 of the Act (33 U.S.C. 491) is amended to read as follows:

"That when, after March 23, 1906, authority is granted by Congress to any persons to construct and maintain a bridge across or over any of the navigable waters of the United States, such bridge shall not be built or commenced until the plans and specifications for its construction, together with such drawings of the proposed construction and such map of the proposed location as may be required for a full understanding of the subject, have been submitted to the Secretary of the Army for the Secretary's approval, nor until the Secretary shall have approved such plans and specifications and the location of such bridge and accessory works; and when the plans for any bridge to be constructed under the provisions of this Act have been approved by the Secretary it shall not be lawful to deviate from such plans, either before or after completion of the structure, unless the modification of such plans has previously been submitted to and received the approval of the Secretary. In the case of a bridge over the Saint Lawrence Seaway, the authority in this section shall be exercised by the Secretary of Transportation instead of the Secretary of the Army. This section shall not apply to any bridge over waters that are not subject to the ebb and flow of the tide and that are not used and are not susceptible to use in their natural condition or by reasonable improvement as a means to transport interstate or foreign commerce.".

(2) Section 4 of the Act (33 U.S.C. 494) is amended to read as follows:

"No bridge erected or maintained under the provisions of this Act shall at any time unreasonably obstruct the free navigation of the waters over which it is constructed, and if any bridge erected in accordance with the provisions of this Act shall, in the opinion of the Secretary of the Army, at any time unreasonably obstruct such navigation, either on account of insufficient height, width of span, or otherwise, or if there be difficulty in passing the draw opening or the drawspan of

such bridge by rafts, steamboats, or other watercraft, it shall be the duty of the Secretary of the Army, after giving the parties interested reasonable opportunity to be heard, to notify the persons owning or controlling such bridge to so alter the same as to render navigation through or under it reasonably free, easy, and unobstructed, stating in such notice the changes required to be made and prescribing in each case a reasonable time in which to make such changes, and if at the end of the time so specified the changes required have not been made, the persons owning or controlling such bridge shall be deemed guilty of a violation of this Act; and all such alterations shall be made and all such obstructions shall be removed at the expense of the persons owning or operating said bridge. In the case of a bridge over the Saint Lawrence Seaway, the above authority in this section shall be exercised by the Secretary of Transportation instead of the Secretary of the Army. The persons owning or operating any such bridge shall maintain, at their own expense, such lights and other signals thereon as the Secretary of Transportation shall prescribe. If the bridge shall be constructed with a draw, then the draw shall be opened promptly by the persons owning or operating such bridge upon reasonable signal for the passage of boats and other water craft.".

(3) Section 5 of the Act (33 U.S.C. 495) is amended to read as follows:

"(a) Any person who shall willfully fail or refuse to comply with the lawful order of the Secretary of the Army or the Secretary of Transportation made in accordance with provisions of this Act commits a class C misdemeanor, and every month such persons shall remain in default shall be deemed a new offense and subject such persons to additional penalties therefor; and in addition to the penalties above described the Secretary of the Army (or the Secretary of Transportation, in the case of a bridge or causeway in or over the Saint Lawrence Seaway) may, upon refusal of the persons owning or controlling any such bridge and accessory works to comply with any lawful order issued by the Secretary in regard thereto, cause the removal of such bridge, and suit for such expense may be brought in the name of the United States against such persons, and recovery had for such expense in any court of competent jurisdiction, and the removal of any structures erected or maintained in violation of the provisions of this Act or the order or direction of the Secretary made in pursuance thereof may be enforced by injunction, mandamus, or other summary process, upon application to the district court in the district in which such structure may, in whole or part, exist, and proper proceedings to this end may be instituted under the direction of the Attorney General of the United States at the request of the Secretary; and in case of any litigation arising from any obstruction or alleged obstruction to navigation created by the construction of any bridge under this Act, the cause or question arising may be tried before the district court of the United States in any district which any portion of said obstruction or bridge touches.

"(b) Whoever violates any provision of this Act, or any order issued under this Act, shall be liable to a civil penalty of not more than $1,000. Each day a violation continues shall be deemed a separate offense. No penalty may be assessed under this subsection until the person charged is given notice and an opportunity for a hearing on the charge. The Secretary whose order is violated, or who is responsible for the administration of a provision of this Act which is violated, may assess and collect any civil penalty incurred under this subsection and, in the Secretary's discretion, may remit, mitigate, or compromise any penalty until the matter is referred to the Attorney General. If a person against whom a civil penalty is assessed under this subsection fails to pay that penalty, an action may be commenced in the district court of the United States for any district in which the violation occurs for such penalty.".

(d) AMENDMENT TO THE ACT OF AUGUST 1894.—Section 5 of the Act of August 18, 1894 (33 U.S.C. 499), is amended to read as follows:

"(a) It shall be the duty of all persons owning, operating, and tending drawbridges across the navigable rivers and other waters of the United States, whenever built, to open, or cause to be opened, the draws of such bridges under such rules and regulations as in the opinion of the Secretary of the Army the public interests require to govern the opening of drawbridges for the passage of vessels and other water crafts, and such rules and regulations, when so made and published, shall have the force of law. Every such person who shall willfully fail or refuse to open, or cause to be opened, the draw of any such bridge for the passage of a boat or boats, as provided in such regulations, commits class A misdemeanor: *Provided,* That the proper action to enforce the provisions of this subsection may be commenced before any magistrate, judge, or court of the United States, and such magistrate, judge, or court shall proceed in respect thereto as authorized by law in case of crimes against the United States: *Provided further,* That whenever, in the opinion of the Secretary of the Army, the public interests require it, the Secretary may make rules and regulations

to govern the opening of drawbridges for the passage of vessels and other water crafts, and such rules and regulations, when so made and published, shall have the force of law, and any willful violation thereof shall be punished as hereinbefore provided: *Provided further,* That any regulations made in pursuance of this section may be enforced as provided in section 17 of the Act of March 3, 1899 (33 U.S.C. 413), the provisions whereof are made applicable to the said regulations.

"(b) No vessel owner or operator shall signal a drawbridge to open for any nonstructural vessel appurtenance which is not essential to navigation or which is easily lowered and no person shall unreasonably delay the opening of a draw after the signal required by rules or regulations under this section has been given. The Secretary of the Army shall issue rules and regulations to implement this subsection.

"(c) Whoever violates any rule or regulation issued under subsection (a) or (b), shall be liable to a civil penalty of not more than $1,000. No penalty may be assessed under this subsection until the person charged is given notice and an opportunity for a hearing on the charge. The Secretary of the Army may assess and collect any civil penalty incurred under this subsection and, in the Secretary's discretion, may remit, mitigate, or compromise any penalty until the matter is referred to the Attorney General. If a person against whom a civil penalty is assessed under this subsection fails to pay that penalty, an action may be commenced in the district court of the United States for any district in which the violation occurs for such penalty.

"(d) In the case of a bridge over the Saint Lawrence Seaway, the authority in this section shall be exercised by the Secretary of Transportation instead of the Secretary of the Army.".

(e) AMENDMENTS TO THE TRUMAN-HOBBS ACT.—The Act of June 21, 1940, known as the Truman-Hobbs Act, is amended as follows:

(1) Section 1 of the Act (33 U.S.C. 511) is amended to read as follows:

"When used in this Act, unless the context indicates otherwise—

"(1) The term 'alteration' includes changes of any kind, reconstruction, or removal in whole or in part.

"(2) The term 'bridge' means a lawful bridge over navigable waters of the United States, including approaches, fenders, and appurtenances thereto, which is used and operated for the purpose of carrying railroad traffic or both railroad and highway traffic, or if a State, county, municipality, or other political subdivision is the owner or joint owner thereof, which is used and operated for the purpose of carrying highway traffic.

"(3) The term 'bridge owner' means any State, county, municipality, or other political subdivision, or any corporation, association, partnership, or individual owning, or jointly owning, any bridge, and, when any bridge shall be in the possession or under the control of any trustee, receiver, trustee in a case under title 11 of the United States Code, or lessee, such term shall include both the owner of the legal title and person or the entity in possession or control of such bridge.

"(4) The term 'Secretary' means the Secretary of the Army, except in the case of a bridge over the Saint Lawrence Seaway, in which case it means the Secretary of Transportation.

"(5) The term 'United States', when used in a geographical sense, includes the Territories and possessions of the United States.".

(2) Section 4 of the Act (33 U.S.C. 514) is amended to read as follows:

"After the service of an order under this Act, it shall be the duty of the bridge owner to prepare and submit to the Secretary, within a reasonable time as prescribed by the Secretary, general plans and specifications to provide for the alteration of such bridge in accordance with such order, and for such additional alteration of such bridge as the bridge owner may desire to meet the necessities of railroad or highway traffic, or both. The Secretary may approve or reject such general plans and specifications, in whole or in part, and may require the submission of new or additional plans and specifications, but when the Secretary shall have approved general plans and specifications, they shall be final and binding upon all parties unless changes therein be afterwards approved by the Secretary and the bridge owner.".

(3) Section 7 of the Act (33 U.S.C. 517) is amended to read as follows:

"Following service of the order requiring alteration of the bridge, the Secretary may make partial payments as the work progresses to the extent that funds have been appropriated. The total payments out of Federal funds shall not exceed the proportionate share of the United States of the total cost of the project paid or incurred by the bridge owner, and if such total cost exceeds the cost guaranteed by

the bridge owner, shall not exceed the proportionate share of the United States of such guaranteed cost, except that if the cost of the work exceeds the guaranteed cost by reason of emergencies, conditions beyond the control of the owner, or unforeseen or undetermined conditions, the Secretary may, after full review of all the circumstances, provide for additional payments by the United States to help defray such excess cost to the extent the Secretary deems it to be reasonable and proper, and shall certify such additional payments to the Secretary of the Treasury for payment. All payments made to any bridge owner herein provided for shall be made by the Secretary of the Treasury upon certifications of the Secretary.".

(4) Section 13 of the Act (33 U.S.C. 523) is amended to read as follows:

"If the owner of any bridge and the Secretary shall agree that in order to remove an obstruction to navigation, or for any other purpose, a relocation of such bridge or the construction of a new bridge upon a new location shall be preferable to an alteration of the existing bridge, such relocation or new construction may be carried out at such new site and upon such terms as may be acceptable to the bridge owner and the Secretary, and the cost of such relocation or new construction, including also any expense of changes in and additions to rights-of-way, stations, tracks, spurs, sidings, switches, signals, and other railroad facilities and property, and relocation of shippers required for railroad connection with the bridge at the new site, shall be apportioned as between the bridge owner and the United States in the manner which is provided for in section 6 of this Act (33 U.S.C. 516) in the case of an alteration and the share of the United States paid from the appropriation authorized in section 8 of this Act (33 U.S.C. 518): *Provided*, That nothing in this section shall be construed as requiring the United States to pay any part of the expense of building any bridge across a navigable stream which the Secretary shall not find to be, in fact, a relocation of the existing bridge.".

(f) AMENDMENTS TO THE GENERAL BRIDGE ACT OF 1946.—The Act of August 12, 1946, known as the General Bridge Act of 1946, is amended as follows:

(1) Section 502 of the Act (33 U.S.C. 525) is amended to read as follows:

"(a) CONSENT OF CONGRESS.—The consent of Congress is hereby granted for the construction, maintenance, and operation of bridges and approaches thereto over the navigable waters of the United States, in accordance with the provisions of this title.

"(b) APPROVAL OF PLANS.—The location and plans for such bridges shall be approved by the Secretary of the Army before construction is commenced, and, in approving the location and plans of any bridge, the Secretary may impose any specific conditions relating to the maintenance and operation of the structure which the Secretary may deem necessary in the interest of public navigation, and the conditions so imposed shall have the force of law. In the case of a bridge over the Saint Lawrence Seaway, the authority in this subsection shall be exercised by the Secretary of Transportation instead of the Secretary of the Army. This subsection shall not apply to any bridge over waters which are not subject to the ebb and flow of the tide and which are not used and are not susceptible to use in their natural condition or by reasonable improvement as a means to transport interstate or foreign commerce.

"(c) PRIVATE HIGHWAY TOLL BRIDGES.—Notwithstanding the provisions of subsections (a) and (b) of this section, it shall be unlawful to construct or commence the construction of any privately owned highway toll bridge until the location and plans thereof shall also have been submitted to and approved by the highway department or departments of the State or States in which the bridge and its approaches are situated: and where such bridge shall be between two or more States and the highway departments thereof shall be unable to agree upon the location and plans therefor, or if they, or either of them, shall fail or refuse to act upon the location and plans submitted, such location and plans then shall be submitted to the Secretary of the Army and, if approved by the Secretary of the Army, approval by the highway departments shall not be required.".

(2) Section 510 of the Act (33 U.S.C. 533) is amended to read as follows:

"(a) Any person who willfully fails or refuses to comply with any lawful order of the Secretary of the Army or the Secretary of Transportation issued under the provisions of this title, or who willfully fails to comply with any specific conditions imposed by the Secretary of the Army or the Secretary of Transportation relating to the maintenance and operation of bridges, or who willfully refuses to produce books, papers, or documents in obedience to a subpoena or other lawful requirement under this title, or who otherwise willfully violates any provision of this title, commits a class A misdemeanor.

"(b) Whoever violates any provision of this Act, or any order issued under this Act, shall be liable to a civil penalty of not more than $1,000. Each day a violation

continues shall be deemed a separate offense. No penalty may be assessed under this subsection until the person charged is given notice and an opportunity for a hearing on the charge. The Secretary responsible for the provision or order violated may assess and collect the civil penalty incurred under this subsection and, in the Secretary's discretion, may remit, mitigate, or compromise the penalty until the matter is referred to the Attorney General. If a person against whom a civil penalty is assessed under this subsection fails to pay that penalty, an action may be commenced in the district court of the United States for any district in which the violation occurs for such penalty.".

(g) AMENDMENTS TO THE INTERNATIONAL BRIDGE ACT OF 1972.—The International Bridge Act of 1972, is amended as follows:

(1) Section 2 of the Act (33 U.S.C. 535) is amended to read as follows:

"The consent of Congress is hereby granted to the construction, maintenance, and operation of any bridge and approaches thereto, which will connect the United States with any foreign country (hereinafter in this Act referred to as an 'international bridge') and to the collection of tolls for its use, so far as the United States has jurisdiction. Such consent shall be subject to (1) the approval of the proper authorities in the foreign country concerned; (2) the provisions of the Act entitled 'An Act to regulate the construction of bridges over navigable waters', approved March 23, 1906 (33 U.S.C. 491–498), except section 6 (33 U.S.C. 496), whether or not such bridge is to be built across or over any of the navigable waters of the United States; and (3) the provisions of this subchapter. In the case of a bridge over the Saint Lawrence Seaway, and in the case of a bridge which would not otherwise be subject to the Act of March 23, 1906, the authority of the Secretary of the Army in this section shall be exercised by the Secretary of Transportation instead of the Secretary of the Army.".

(2) Section 5 of the Act (33 U.S.C. 535c) is amended to read as follows:

"The approval of the Secretary of the Army or the Secretary of Transportation as required by the first section of the Act of March 23, 1906 (33 U.S.C. 491), and section 2 of this Act (33 U.S.C. 535) shall be given only subsequent to the President's approval, as provided for in section 4 of this Act, and shall be null and void unless the construction of the bridge is commenced within two years and completed within five years from the date of the Secretary's approval: *Provided, however,* That the Secretary concerned, for good cause shown, may extend for a reasonable time either or both of the time limits herein provided.".

(3) Section 11 of the Act (33 U.S.C. 535h) is amended to read as follows:

"The Secretary of the Army and the Secretary of Transportation shall each make an annual report of approvals granted by them under sections 2 and 5 of this Act (33 U.S.C. 535 and 535c).".

(h) AMENDMENTS TO TITLE 14, UNITED STATES CODE.—Section 662 of title 14, United States Code, is amended—

(1) by striking paragraph (3),

(2) by redesignating paragraph (4) as paragraph (3), and

(3) in paragraph (3) (as redesignated) by striking "clauses (1)–(3)" and inserting "paragraph (1) or (2)".

SEC. 5. COMPILATION OF LAWS.

The Secretary of the Army shall prepare a compilation of Federal laws relating to the administration and regulation of bridges, causeways, dams, dikes, and other structures in, on, or over navigable waters of the United States and shall submit that compilation to the Speaker of the House of Representatives and the President pro tempore of the Senate with any recommendations to consolidate, revise, amend, or simplify those laws.

PURPOSE OF THE BILL

The purpose of this legislation is to transfer the authority to administer bridges and causeways over the navigable waters of the United States from the Secretary of Transportation to the Secretary of the Army. This transfer of responsibility would eliminate overlapping jurisdiction and simplify the administrative process for both the government and the public.

Background and Need for Legislation

Currently, both the Coast Guard and the Army Corps of Engineers regulate the contruction and alteration of bridges and causeways over navigable waters of the United States.

The Coast Guard is responsible for assuring that a bridge or causeway does not unreasonably obstruct navigation. It also imposes, in the course of approving a permit, conditions to facilitate navigation. The Army Corps of Engineers grants permits for the construction of bridges and shares responsibility for preventing obstructions to navigation. The Corps also regulates bridge piers or abutments that may cause damage by deflection of the currents, as well as all other piers, bulkheads, and wharves.

The Federal authority for these functions is based on Congress' Constitutional power to regulate interstate and foreign commerce and to tax and spend for the general welfare—powers that have been further defined by U.S. Supreme Court decisions.

In April 1967, certain functions of the Army Corps of Engineers relating to the regulation and construction of bridges and causeways were transferred to the newly-created Department of Transportation. Reponsibility for regulating the construction of all other structures in or over navigable waters and for dredge and fill operations remained with the Army Corps of Engineers.

Initially, the division of responsibility between the Coast Guard and the Army Corps of Engineers was quite effective. However, recent environmental legislation has expanded the Army Corps of Engineers' mandate, so that now it must consider the public interest in protecting and using water resources. Pertinent legislation includes section 404 of the Clean Water Act, which established an Army Corps of Engineers permit program for the discharge of any dredged or fill material into the waters of the United States (most bridges and all causeways have some fill material associated with their construction), section 103 of the Marine Protection, Research, and Sanctuaries Act, which authorized the issuance of permits for the transportation and disposal of dredged material into ocean waters, and the National Environmental Policy Act which requires that an environmental impact statement be prepared for a major Federal action that significantly affects the quality of the human environment.

As a result of this overlap, bridge and causeway construction invariably involves permitting action by both agencies. This division of responsibility has created a process that is unnecessarily cumbersome for the applicant, as well as administratively inefficient for the Government.

H.R. 1755 would transfer most of the responsibility for regulation of bridges and causeways from the Secretary of Transportation to the Secretary of the Army. The Secretary of Transportation would continue to regulate bridges and causeways over the Saint Lawrence Seaway and prescribe rules for navigational lights and other signals on bridges.

H.R. 1755 would end unnecessary and duplicative regulation, eliminate interagency disagreements over which agency should be the lead agency in preparing the environmental impact study for the major bridge and causeway projects, and speed the approval

process for bridge and causeway construction or modification. Finally, since the Corps plans to delegate most aspects of bridge administration to its 38 district offices, this would provide more face-to-face and on-site contact.

There would be limited personnel and budgetary implications associated with this proposal. There would be a permanent transfer of 55 positions (all civilian employees) from the Coast Guard to the Army Corps of Engineers, without any change in the total number employed by the Federal Government. The Coast Guard currently estimated that the transfer would entail a one-time cost of $611,000 for physical transfer of Coast Guard personnel to new locations with the Army Corps of Engineers. Upon transfer, funds otherwise allocated to the Coast Guard bridge program would be reallocated to the Army Corps of Engineers, without change in the amount of permanent funding.

The Committee finds that to meet the concerns of the maritime industry which were raised during consideration of the legislation, certain conditions are essential. In order to address these concerns, the Coast Guard and the Corps of Engineers have agreed to take the following actions:

(1) The Corps of Engineers' navigation (operations) personnel in each district would administer the drawbridge regulation program.

(2) The Corps of Engineers would establish a 24-hour hotline number for mariners to report bridge problems.

(3) The Coast Guard would transmit bridge safety and emergency information to the Corps of Engineers district person in charge of the drawbridge regulation program.

(4) The Coast Guard would continue to issue broadcast notices and local notices to mariners concerning drawbridge operation.

(5) Coast Guard aids-to-navigation personnel would identify and report on the jurisdictional location of bridges according to Army Corps of Engineers districts.

(6) The Secretaries of Transportation and the Army would develop a memorandum of agreement outlining the procedures for carrying out the transfer.

H.R. 1755 would require the Secretary of the Army to prepare a list of Federal laws related to the administration and regulation of bridges, causeways, dams, dikes, and other structures in, on, or over the navigable waters of the United States. The Secretary would be required to submit to Congress copies of this compilation along with recommendations to consolidate, revise, amend, and simplify these laws. This compilation would assist Congress in its legislative and oversight roles. It would also identify necessary changes that will improve the process of regulating structures over navigable waters for both the government and the public.

In the 100th Congress, the Committee favorably reported H.R. 4558, legislation virtually identical to H.R. 1755 (see House Report 100-966, Part 1). H.R. 4558 was then attached to H.R. 5247, which passed the House on September 30, 1988. However, the provision incorporating H.R. 4558 was later dropped in conference.

Committee Action

On April 10, 1989, Committee Chairman Walter B. Jones introduced H.R. 1755, the "Bridge Administration Transfer Act". Original cosponsors of H.R. 1755 include Mr. Tauzin, Mr. Davis, Mr. Anderson, Mr. Hammerschmidt, and Mr. Stangeland.

On March 9, 1989, the Subcommittee on Coast Guard and Navigation held a hearing on the subject of bridge transfer. Testimony was received from Commandant Paul Yost.

In a proposal transmitted to Congress on April 13, 1989, the Administration recommended that the authority to administer bridges and causeways be transferred back to the Army Corps of Engineers. On May 11, 1989, Mr. Davis introduced H.R. 2326, the Administration's proposed bill, by request.

On May 24, 1989, the Subcommittee on Coast Guard and Navigation met to mark up H.R. 1755. No amendments were offered and the Subcommittee ordered H.R. 1755 reported to the full Committee by voice vote.

On June 21, 1989, the Committee met to consider H.R. 1755. A technical amendment was offered by Chairman Jones to modify the fine provisions in the bill so they would conform to the guidelines established by the Criminal Fine Improvements Act of 1987. The Jones amendment was adopted by voice vote. The Committee ordered the bill, as amended, favorably reported to the House by voice vote.

Section-by-Section Analysis

Section 1. Short title

This Act is entitled the "Bridge Administration Transfer Act."

Section 2. Transfer of authority

Section 2(a) would transfer the administrative responsibility for certain bridges and causeways from the Secretary of Transportation to the Secretary of the Army. Bridges and causeways covered by this bill are those over the navigable waters of the United States as defined in subsection (c). The bill specifically would transfer the authority to approve bridges and causeways, regulate drawbridges, administer bridge alterations, and all other authorities, functions, and duties relating to bridges and causeways currently administered by the Secretary of Transportation. The Secretary of Transportation would retain authority to administer bridges and causeways in or over the Saint Lawrence Seaway and to prescribe navigational lights and other signals on bridges and causeways.

Section 2(b) provides that the transfer of authority would take effect one year after the date of enactment or any earlier date agreed to by the Secretaries of Transportation and Army and published in the Federal Register.

Subsection (c) defines the term "navigable waters" as used in this bill and thereby delineates the bridges and causeways covered by this legislation. Navigable waters means bodies of water that are subject to the ebb and flow of the tide, or that are used or susceptible to use in their natural condition or by reasonable improvement as a means of transporting interstate or foreign commerce.

Section 3. Procedure for transfer

Subsection (a) directs the Secretary of Transportation to transfer to the Secretary of the Army all civilian employees, money, property, and other resources used for bridge administration, as well as all liabilities incurred in the Coast Guard's bridge administration program. The Secretary of Transportation would retain those employees, liabilities, money, property and other resources used to administer bridges and causeways over the Saint Lawrence Seaway and for navigational lights. The transfer of these resources and personnel would occur within one year of the enactment of H.R. 1755 as determined by the Director of the Office of Management and Budget (OMB) in consultation with the Secretaries of Transportation and the Army.

Employees transferred as a result of this legislation would not be separated or reduced in grade or compensation for at least one year following their transfer. Transfers would be carried out in accordance with 5 U.S.C. 3503. All funds transferred would be required to be accounted for in accordance with the Budget and Accounting Procedures list (31 U.S.C. 1531).

Subsection (b) provides that the Secretary of the Army may issue regulations to implement the transfer of authority under section 2. Regulations issued under this section to implement specific transfers of authority would take effect when the specific transfer of authority occurs.

The authority to promulgate regulations under section (b) would apply only to procedural regulations necessary to implement the transfer of authority mandated by this bill. An example of the type of regulations covered by this section is the listing of which Corps of Engineers office has authority over bridges in a particular part of the country.

This section would not affect the procedures applicable to regulatory changes that fundamentally after the bridge administration program. This type of change should continue to be made in accordance with the provisions of the Administrative Procedure Act (5 U.S.C. 551 et seq.).

The importance of the Administrative Procedure Act in the bridge administration program is demonstrated by the Coast Guard's proposal to institute a general bridge permitting system. In response to comments by Federal and state agencies, as well as private citizens, the Coast Guard modified the proposal to more thoroughly consider the impact a bridge may have on wetlands, wildlife, and endangered species habitat. If the normal rulemaking process mandated by the Administrative Procedure Act had been circumvented, this important input would have been lost and critical environmental questions not addressed.

Subsection (c) provides that H.R. 1755 would not affect legal rights or duties that exist prior to the transfer of administrative responsibilities to the Secretary of the Army. Therefore, except for substituting the Secretary of the Army for the Secretary of Transportation, the bill would not affect approvals, notices, determinations, grants, contracts, permits or permit actions, regulatory actions, penalties or penalty actions, suits or claims against or by the United States or officers, personnel, or agencies of the United

States, or legal rights or duties relating to bridges and causeways over navigable waters.

Section 4. Conforming amendments

This section would amend a number of existing laws to substitute "Secretary of the Army" for "Secretary of Transportation," so that responsibilities and authority currently vested in the Secretary of Transportation would be performed by the Secretary of the Army. The section also would change criminal fine provisions in existing law to conform to the Criminal Fine Improvements Act of 1987.

Subsection (a) would provide that conforming amendments in section 4 would not become effective until the transfer of authority mandated in this bill actually occurs.

Subsection (b) would amend section 9 of the Rivers and Harbors Appropriations Act of 1899 (33 U.S.C. 401) so that the Secretary of the Army rather than the Secretary of Transportation would review and approve the site and plans to construct bridges and causeways. The Secretary of Transportation would retain authority over bridges and causeways in or over the Saint Lawrence Seaway. Section 18 (33 U.S.C. 502) would be amended so that the Secretary of the Army would have authority to order modifications of a bridge that obstructs navigation and to assess and collect civil fines for a violation of this section. The Secretary of Transportation would have analogous authority for bridges and causeways in or over the Saint Lawrence Seaway. The criminal fine in this law would be amended to conform with the Criminal Fine Improvements Act of 1987 (See 18 U.S.C. 3571-3582). Accordingly, the provision for a fine not exceeding $5,000 would be changed so that a violation of this section would be a class C misdemeanor.

Subsection (c) would amend section 1 of the Bridge Act of 1906 (33 U.S.C. 491) so that the Secretary of the Army would have authority to approve plans and specifications for bridges governed by this Act. The Secretary of Transportation would retain authority over bridges over the Saint Lawrence Seaway. Section 4 of the Act (33 U.S.C. 494), which relates to bridges that obstruct navigation, would be amended to give the Secretary of the Army authority to order and approve modifications except in the case of a bridge over the Saint Lawrence Seaway. Section 5 of the Act (33 U.S.C. 495) would be amended to give the Secretaries of the Army and Transportation (depending on where the briges is located) the authority to assess criminal and civil penalties for a violation of the Bridge Act of 1906 or for failure to obey an order issued under this Act. The criminal fine in this law would be amended to conform with the Criminal Fine Improvements Act of 1987 (See 18 U.S.C. 3571-3582). Accordingly, the provision for a fine not exceeding $5,000 would be changed so that a violation of this section would be a class C misdemeanor.

Subsection (d) would amend section 5 of the Act of August 18, 1894 (33 U.S.C. 499) to allow the Secretary of the Army to regulate drawbridges. The Secretary of Transportation would retain the authority to regulate drawbridges over the Saint Lawrence Seaway. The criminal fine in this law would be amended to conform with the Criminal Fine Improvements Act of 1987 (See 18 U.S.C. 3571-3582). Accordingly, the provision for a fine not exceeding $2,000 or

by imprisonment for not exceeding a year or both would be changed so that a violation of this section would be a class A misdemeanor.

Subsection (e) would amend section 1 of the Truman-Hobbs Act (33 U.S.C. 511) to define "Secretary" as the Secretary of the Army except in the case of a bridge over the Saint Lawrence Seaway, when it means the Secretary of Transportation. This subsection would amend sections 4, 7, and 13 of the Act (33 U.S.C. 514, 517, and 523) by striking "Secretary of Transportation" and inserting "Secretary".

Subsection (f) would amend section 502 of the General Bridge Act of 1946 (33 U.S.C. 525) by transferring the authority to approve the location and plans for bridges under this Act from the Secretary of Transportation to the Secretary of the Army, except for bridges over the Saint Lawrence Seaway. Section 510 of the Act (33 U.S.C. 533) would be amended so that the Secretary of the Army rather than the Secretary of Transportation would have the authority to assess fines for violations of the Act. The criminal fine in this law would be amended to conform with the Criminal Fine Improvements Act of 1987 (See 18 U.S.C. 3571–3582). Accordingly, the provision for a fine not exceeding $5,000 or imprisonment for not more than a year or both would be changed so that a violation of this section would be a class A misdemeanor.

Subsection (g) would amend sections 2 and 5 of the International Bridge Act of 1972 (33 U.S.C. 535 and 535c) by authorizing the Secretary of the Army to approve the sites and plans for international bridges, except bridges across the Saint Lawrence Seaway. Section 11 of the Act (33 U.S.C. 535h) would be amended to require the Secretaries of the Army and Transportation to each make annual reports to Congress of the approvals granted under sections 2 and 5 of the Act.

Subsection (h) would amend section 662 of title 14, United States Code. Section 662 relates to the authorization of funds for the Coast Guard. The amendment would delete references to funds for obstructing bridges from this section.

Section 5. Compilation of laws

This section directs the Secretary of the Army to prepare a compilation of Federal laws relating to the administration and regulation of bridges, causeways, dams, dikes, and other structures in, on, or over the navigable waters of the United States and submit it to Congress. This compilation should include recommendations to consolidate, revise, amend, or simplify these laws.

Inflationary Impact Statement

Pursuant to clause 2(l)(4) of rule XI of the Rules of the House of Representatives, the Committee estimates that the enactment of H.R. 1755 will have no significant impact on the national economy.

Cost of the Legislation

Pursuant to paragraph (d) of clause 7 of rule XIII of the Rules of the House of Representatives, the provisions of this clause do not apply where a cost estimate and comparison prepared by the Direc-

tor of the Congressional Budget Office has been included in the report.

Compliance With Clause 2(l)(3) of Rule XI

With respect to the requirements of clause 2(l)(3) of rule XI of the Rules of the House of Representatives:

(A) One hearing on the subject matter of H.R. 1755 was held on March 9, 1989, by the Subcommittee on Coast Guard and Navigation.

(B) The requirements of section 308(a) of the Congressional Budget Act of 1974 are not applicable to this legislation since it does not provide new budget authority or new or increased tax expenditures.

(C) The Committee on Merchant Marine and Fisheries has received no report from the Committee on Government Operations of oversight findings and recommendations arrived at pursuant to clauses 4(c)(2) of rule X of the Rules of the House of Representatives.

(D) The Director of the Congressional Budget Office has furnished the Committee with a report fulfilling the requirements of section 308(a) of the Congressional Budget Act of 1974 and an estimate and comparison of costs for H.R. 1755 pursuant to section 403 of the Congressional Budget Act of 1974.

The submission is as follows:

U.S. Congress,
Congressional Budget Office,
Washington, DC, June 29, 1989.

Hon. Walter B. Jones,
Chairman, Committee on Merchant Marine and Fisheries,
House of Representatives, Washington, DC.

Dear Mr. Chairman: The Congressional Budget Office has reviewed H.R. 1755, the Bridge Administration Transfer Act, as ordered reported by the House Committee on Merchant Marine and Fisheries, June 21, 1989. CBO estimates that the federal government would incur costs of about $1 million in fiscal years 1990 and 1991 as a result of this bill, assuming appropriation of the necessary sums. Enactment of the bill would not result in any additional costs for state or local governments.

H.R. 1755 would transfer the authority to administer bridges and causeways over navigable waters from the Secretary of Transportation to the Secretary of the Army, effective one year after enactment. The bill would direct the Secretary of Transportation to transfer all civilian employees, personnel positions, assets and liabilities, property, records and other resources employed for this purpose to the Secretary of the Army.

Based on information provided by the Department of Transportation, CBO estimates that this transfer would cost about $1 million. This would be a one-time cost incurred over fiscal years 1990 and 1991, primarily to relocate employees and equipment. We do not expect this bill to cause any significant change in annual federal spending for bridge administration activities.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Deborah Reis, who can be reached at 226–2860.

Sincerely,

ROBERT D. REISCHAUER.

DEPARTMENTAL REPORTS

The Committee has received no departmental reports on H.R. 1755. The Administration did transmit an Executive Communication 1009, with proposed legislation similar to H.R. 1755.

CHANGES IN EXISTING LAW

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, as amended, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

33 U.S.C. 401

CONSTRUCTION OF BRIDGES, CAUSEWAYS, DAMS OR DIKES GENERALLY; EXEMPTIONS

[It shall not be lawful to construct or commence the construction of any bridge, causeway, dam, or dike over or in any port, roadstead, haven, harbor, canal, navigable river, or other navigable water of the United States until the consent of Congress to the building of such structures shall have been obtained and until the plans for (1) the bridge or causeway shall have been submitted to and approved by the Secretary of Transportation, or (2) the dam or dike shall have been submitted to and approved by the Chief of Engineers and Secretary of the Army. However, such structures may be built under authority of the legislature of a State across rivers and other waterways the navigable portions of which lie wholly within the limits of a single State, provided the location and plans thereof are submitted to and approved by the Secretary of Transportation or by the Chief of Engineers and Secretary of the Army before construction is commenced. When plans for any bridge or other structure have been approved by the Secretary of Transportation or by the Chief of Engineers and Secretary of the Army, it shall not be lawful to deviate from such plans either before or after completion of the structure unless modification of said plans has previously been submitted to and received the approval of the Secretary of Transportation or the Chief of Engineers and the Secretary of the Army. The approval required by this section of the location and plans or any modification of plans of any bridge or causeway does not apply to any bridge or causeway over waters that are not subject to the ebb and flow of the tide and that are not used and are not susceptible to use in their natural condition or by reasonable improvement as a means to transport interstate or foreign commerce.]

It shall not be lawful to construct or commence the construction of any bridge, causeway, dam, or dike over or in any port, roadstead,

haven, harbor, canal, navigable river, or other navigable water of the United States until the consent of Congress to the building of such structures shall have been obtained and until the plans for the bridge, causeway, dam, or dike shall have been submitted to and approved by the Secretary of the Army. However, such structures may be built under authority of the legislature of a State across rivers and other waterways the navigable portions of which lie wholly within the limits of a single State, provided the location and plans thereof are submitted to and approved by the Secretary of the Army before construction is commenced. When plans for any bridge or other structure have been approved by the Secretary of the Army, it shall not be lawful to deviate from such plans either before or after completion of the structure unless modification of said plans has previously been submitted to and received the approval of the Secretary of the Army. In the case of a bridge or causeway in or over the Saint Lawrence Seaway, the authority in this section shall be exercised by the Secretary of Transportation instead of the Secretary of the Army. The approval required by this section does not apply to any bridge or causeway over waters that are not subject to the ebb and flow of the tide and that are not used and are not susceptible to use in their natural condition or by reasonable improvement as a means to transport interstate or foreign commerce.

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33 U.S.C. 491

[APPROVAL OF AND DEVIATION FROM PLANS; EXEMPTIONS

[When, after March 23, 1906, authority is granted by Congress to any persons to construct and maintain a bridge across or over any of the navigable waters of the United States, such bridge shall not be built or commenced until the plans and specifications for its construction, together with such drawings of the proposed construction and such map of the proposed location as may be required for a full understanding of the subject, have been submitted to the Secretary of Transportation for the Secretary's approval, nor until the Secretary shall have approved such plans and specifications and the location of such bridge and accessory works; and when the plans for any bridge to be constructed under the provisions of sections 491 to 498 of this title, have been approved by the Secretary it shall not be lawful to deviate from such plans, either before or after completion of the structure, unless the modification of such plans has previously been submitted to and received the approval of the Secretary. This section shall not apply to any bridge over waters which are not subject to the ebb and flow of the tide and which are not used and are not susceptible to use in their natural condition or by reasonable improvement as a means to transport interstate or foreign commerce.]

That when, after March 23, 1906, authority is granted by Congress to any persons to construct and maintain a bridge across or over any of the navigable waters of the United States, such bridge shall not be built or commenced until the plans and specifications for its construction, together with such drawings of the proposed construction and such map of the proposed location as may be required for a full understanding of the subject, have been submitted

to the Secretary of the Army for the Secretary's approval, nor until the Secretary shall have approved such plans and specifications and the location of such bridge and accessory works; and when the plans for any bridge to be constructed under the provisions of this Act have been approved by the Secretary it shall not be lawful to deviate from such plans, either before or after completion of the structure, unless the modification of such plans has previously been submitted to and received the approval of the Secretary. In the case of a bridge over the Saint Lawrence Seaway, the authority in this section shall be exercised by the Secretary of Transportation instead of the Secretary of the Army. This section shall not apply to any bridge over waters that are not subject to the ebb and flow of the tide and that are not used and are not susceptible to use in their natural condition or by reasonable improvement as a means to transport interstate or foreign commerce.

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33 U.S.C. 494

[No bridge erected or maintained under the provisions of sections 491 to 498 of this title, shall at any time unreasonably obstruct the free navigation of the waters over which it is constructed, and if any bridge erected in accordance with the provisions of said sections, shall, in the opinion of the Secretary of Transportation, at any time unreasonably obstruct such navigation, either on account of insufficient height, width of span, or otherwise, or if there be difficulty in passing the draw opening or the drawspan of such bridge by rafts, steamboats, or other water craft, it shall be the duty of the Secretary of Transportation, after giving the parties interested reasonable opportunity to be heard, to notify the persons owning or controlling such bridge to so alter the same as to render navigation through or under it reasonably free, easy, and unobstructed, stating in such notice the changes required to be made, and prescribing in each case a reasonable time in which to make such changes, and if at the end of the time so specified the changes so required have not been made, the persons owning or controlling such bridge shall be deemed guilty of a violation of said sections; and all such alterations shall be made and all such obstructions shal be removed at the expense of the persons owning or operating said bridge. The persons owning or operating any such bridge shall maintain, at their own expense, such lights and other signals thereon as the Commandant of the Coast Guard shall prescribe. If the bridge shall be constructed with a draw, then the draw shall be opened promptly by the persons owning or operating such bridge upon reasonable signal for the passage of boats and other water craft.]

No bridge erected or maintained under the provisions of this Act shall at any time unreasonably obstruct the free navigation of the waters over which it is constructed, and if any bridge erected in accordance with the provisions of this Act shall, in the opinion of the Secretary of the Army, at any time unreasonably obstruct such navigation, either on account of insufficient height, width of span, or otherwise, or if there be difficulty in passing the draw opening or the drawspan of such bridge by rafts, steamboats, or other water-

craft, it shall be the duty of the Secretary of the Army, after giving the parties interested reasonable opportunity to be heard, to notify the persons owning or controlling such bridge to so alter the same as to render navigation through or under it reasonably free, easy, and unobstructed, stating in such notice the changes required to be made and prescribing in each case a reasonable time in which to make such changes, and if at the end of the time so specified the changes required have not been made, the persons owning or controlling such bridge shall be deemed guilty of a violation of this Act; and all such alterations shall be made and all such obstructions shall be removed at the expense of the person owning or operating said bridge. In the case of a bridge over the Saint Lawrence Seaway, the above authority in this section shall be exercised by the Secretary of Transportation instead of the Secretary of the Army. The persons owning or operating any such bridge shall maintain, at their own expense, such lights and other signals thereon as the Secretary of Transportation shall prescribe. If the bridge shall be constructed with a draw, then the draw shall be opened promptly by the persons owning or operating such bridge upon reasonable signal for the passage of boats and other water craft.

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33 U.S.C. 495

VIOLATIONS OF ORDERS RESPECTING BRIDGES AND ACCESSORY WORKS

[(a) CRIMINAL PENALTIES FOR VIOLATION; MISDEMEANOR; FINE; NEW OFFENSES; JURISDICTION: SUITS FOR RECOVERY OF REMOVAL EXPENSES, ENFORCEMENT OF REMOVAL, AND OBSTRUCTION-TO-NAVIGATION CAUSES OF QUESTIONS.—Any persons who shall willfully fail or refuse to comply with the lawful order of the Secretary of Transportation or the Chief of Engineers, made in accordance with the provisions of sections 491 to 498 of this title, shall be deemed guilty of a misdemeanor and on conviction thereof shall be punished in any court of competent jurisdiction by a fine not exceeding $5,000, and every month such persons shall remain in default shall be deemed a new offense and subject such persons to additional penalties therefor; and in addition to the penalties above described the Secretary of Transportation and the Chief of Engineers may, upon refusal of the persons owning or controlling any such bridge and accessory works to comply with any lawful order issued by the Secretary of Transportation or Chief of Engineers in regard thereto, cause the removal of such bridge and accessory works at the expense of the persons owning or controlling such bridge, and suit for such expense may be brought in the name of the United States against such persons, and recovery had for such expense in any court or competent jurisdiction; and the removal of any structures erected or maintained in violation of the provisions of said sections, or the order or direction of the Secretary of Transportation or Chief of Engineers made in pursuance thereof may be enforced by injunction, mandamus, or other summary process, upon application to the district court in the district in which such structure may, in whole or in part, exist, and proper proceedings to this end may be instituted under the direction of the Attorney General of the United States at the request of the Secretary of Transportation;

and in case of any litigation arising from any obstruction or alleged obstruction to navigation created by the construction of any bridge under said sections, the cause or question arising may be tried before the district court of the United States in any district which any portion of said obstruction or bridge touches.

[(b) CIVIL PENALTIES FOR VIOLATION; SEPARATE OFFENSES; NOTICE AND HEARING; ASSESSMENT, COLLECTION, AND REMISSION; CIVIL ACTIONS.—Whoever violates any provision of sections 491 to 498 of this title, or any order issued under sections 491 to 498 of this title, shall be liable to a civil penalty of not more than $1,000. Each day a violation continues shall be deemed a separate offense. No penalty may be assessed under this subsection until the person charged is given notice and an opportunity for a hearing on the charge. The Secretary of Transportation may assess and collect any civil penalty incurred under this subsection and, in his discretion, may remit, mitigate, or compromise any penalty until the matter is referred to the Attorney General. If a person against whom a civil penalty is assessed under this subsection fails to pay that penalty, an action may be commenced in the district court of the United States for any district in which the violation occurs for such penalty.]

(a) Any person who shall willfully fail or refuse to comply with the lawful order of the Secretary of the Army or the Secretary of Transportation made in accordance with provisions of this Act commits a class C misdemeanor, and every month such persons shall remain in default shall be deemed a new offense and subject such persons to additional penalties therefor; and in addition to the penalties above described the Secretary of the Army (or the Secretary of Transportation, in the case of a bridge or causeway in or over the Saint Lawrence Seaway) may, upon refusal of the persons owning or controlling any such bridge and accessory works to comply with any lawful order issued by the Secretary in regard thereto, cause the removal of such bridge, and suit for such expense may be brought in the name of the United States against such persons, and recovery has for such expense in any court of competent jurisdiction, and the removal of any structures erected or maintained in violation of the provisions of this Act or the order or direction of the Secretary made in pursuance thereof may be enforced by injunction, mandamus, or other summary process, upon application to the district court in the district in which such structure may, in whole or part, exist, and proper proceedings to this end may be instituted under the direction of the Attorney General of the United States at the request of the Secretary; and in case of any litigation arising from any obstruction or alleged obstruction to navigation created by the construction of any bridge under this Act, the cause or question arising may be tried before the district court of the United States in any district which any portion of said obstruction or bridge touches.

(b) Whoever violates any provision of this Act, or any order issued under this Act, shall be liable to a civil penalty or not more than $1,000. Each day a violation continues shall be deemed a separate offense. No penalty may be assessed under this subsection until the person charged is given notice and an opportunity for a hearing on the charge. The Secretary whose order is violated, or who is responsible for the administration of a provision of this Act which is violated, may assess and collect any civil penalty incurred under this

subsection and, in the Secretary's discretion, may remit, mitigate, or compromise any penalty until the matter is referred to the Attorney General. If a person against whom a civil penalty is assessed under this subsection fails to pay that penalty, an action may be commenced in the district court of the United States for any district in which the violation occurs for such penalty.

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33 U.S.C. 499

REGULATIONS FOR DRAWBRIDGES

[(a) CRIMINAL PENALTIES FOR VIOLATIONS; ENFORCEMENT; RULES AND REGULATIONS.—It shall be the duty of all persons owning, operating, and tending the drawbridges built prior to August 18, 1894, or which may thereafter be built across the navigable rivers and other waters of the United States, to open, or cause to be opened, the draws of such bridges under such rules and regulations as in the opinion of the Secretary of Transportation the public interests require to govern the opening of drawbridges for the passage of vessels and other water crafts, and such rules and regulations, when so made and published, shall have the force of law. Every such regulations, when so made and published, shall have the force of law. Every such person who shall willfully fail or refuse to open, or cause to be opened, the draw of any such bridge for the passage of a boat or boats, as provided in such regulations, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine of not more than $2,000 nor less than $1,000, or by imprisonment (in the case of a natural person) for not exceeding one year, or by both such fine and imprisonment, in the discretion of the court: *Provided,* That the proper action to enforce the provisions of this subsection may be commenced before any magistrate, judge, or court of the United States, and such magistrate, judge, or court shall proceed in respect thereto as authorized by law in case of crimes against the United States: *Provided further,* That whenever, in the opinion of the Secretary of Transportation, the public interests require it, he may make rules and regulations to govern the opening of drawbridges for the passage of vessels and other water crafts, and such rules and regulations, when so made and published, shall have the force of law, and any willful violation thereof shall be punished as hereinbefore provided: *Provided further,* That any regulations made in pursuance of this section may be enforced as provided in section 413 of this title, the provisions whereof are made applicable to the said regulations. Any rules and regulations made in pursuance of this section shall, to the extent practical and feasible, provide for regularly scheduled openings of drawbridges during seasons of the year, and during times of the day, when scheduled openings would help reduce motor vehicle traffic delays and congestion on roads and highways linked by drawbridges.

[(b) NONSTRUCTURAL VESSEL APPURTENANCES; UNREASONABLE DELAYS.—No vessel owner or operator shall signal a drawbridge to open for any nonstructural vessel appurtenance which is not essential to navigation or which is easily lowered and no person shall unreasonably delay the opening of a draw after the signal required

by rules or regulations under this section has been given. The Secretary of Transportation shall issue rules and regulations to implement this subsection.

[(c) CIVIL PENALTIES FOR VIOLATION; NOTICE AND HEARING; ASSESSMENT COLLECTION, AND REMISSION; CIVIL ACTIONS.—Whoever violates any rule or regulation issued under subsection (a) or (b) of this section, shall be liable to a civil penalty of not more than $1,000. No penalty may be assessed under this subsection until the person charged is given notice and an opportunity for a hearing on the charge. The Secretary of Transportation may assess and collect any civil penalty incurred under this subsection and, in his discretion, may remit, mitigate, or compromise any penalty until the matter is referred to the Attorney General. If a person against whom a civil penalty is assessed under this subsection fails to pay that penalty, an action may be commenced in the district court of the United States for any district in which the violation occurs for such penalty.]

(a) It shall be the duty of all persons owning, operating, and tending drawbridges across the navigable rivers and other waters of the United States, whenever built, to open, or cause to be opened, the draws of such bridges under such rules and regulations as in the opinion of the Secretary of the Army the public interests require to govern the opening of drawbridges for the passage of vessels and other water crafts, and such rules and regulations, when so made and published, shall have the force of law. Every such person who shall willfully fail or refuse to open, or cause to be opened, the draw of any such bridge for the passage of a boat or boats, as provided in such regulation, commits a class A misdemeanor: Provided, That the proper action to enforce the provisions of this subsection may be commenced before any magistrate, judge, or court of the United States, and such magistrate, judge, or court shall proceed in respect thereto as authorized by law in case of crimes against the United States: Provided further, That whenever, in the opinion of the Secretary of the Army, the public interests require it, the Secretary may make rules and regulations to govern the opening of drawbridges for the passage of vessel and other water crafts, and such rules and regulations, when so made and published, shall have the force of law, and any willful violation thereof shall be punished as hereinbefore provided: Provided further, That any regulations made in pursuance of this section may be enforced as provided in section 17 of the Act of March 3, 1899 (33 U.S.C. 413), the provisions whereof are made applicable to the said regulations.

(b) No vessel owner or operator shall signal a drawbridge to open for any nonstructural vessel appurtenance which is not essential to navigation or which is easily lowered and no person shall unreasonably delay the opening of a draw after the signal required by rules or regulations under this section has been given. The Secretary of the Army shall issue rules and regulations to implement this subsection.

(c) Whoever violates any rule or regulation issued under subsection (a) or (a) shall be liable to a civil penalty of not more than $1,000. No penalty may be assessed under this subsection until the person charged is given notice and an opportunity for a hearing on the charge. The Secretary of the Army may assess and collect any

civil penalty incurred under this subsection and, in the Secretary's discretion, may remit, mitigate, or compromise any penalty until the matter is referred to the Attorney General. If a person against whom a civil penalty is assessed under this subsection fails to pay that penalty, an action may be commenced in the district court of the United States for any district in which the violation occurs for such penalty.

(d) In the case of a bridge over the Saint Lawrence Seaway, the authority in this section shall be exercised by the Secretary of Transportation instead of the Secretary of the Army.

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33 U.S.C. 502

ALTERATION, REMOVAL, OR REPAIR OF BRIDGE OR ACCESSORY OBSTRUCTIONS TO NAVIGATION

[(a) CRIMINAL PENALTIES FOR VIOLATION; ALTERATION OR REMOVAL REQUIREMENTS; NOTICE AND HEARING; SPECIFICATION OF CHANGES; TIME FOR COMPLIANCE; NOTICE TO UNITED STATES ATTORNEY; MISDEMEANOR, FINE; NEW OFFENSES.—Whenever the Secretary of Transportation shall have good reason to believe that any railroad or other bridge new constructed, or which may hereafter be constructed, over any of the navigable waterways of the United States is an unreasonable obstruction to the free navigation of such waters on account of insufficient height, width of span, or otherwise, or where there is difficulty in passing the draw opening or the draw span of such bridge by rafts, steamboats, or other water craft, it shall be the duty of the said Secretary, first giving the parties reasonable opportunity to be heard, to give notice to the persons or corporations owning of controlling such bridge so to alter the same as to render navigation through or under it reasonably free, easy, and unobstructed; and in giving such notice he shall specify the changes that are required to be made, and shall prescribe in each case a reasonable time in which to make them. If at the end of such time the alteration has not been made, the Secretary of Transportation shall forthwith notify the United States attorney for the district in which such bridge is situated, to the end that the criminal proceedings hereinafter in this section mentioned may be taken. If the persons, corporation, or association owning or controlling any railroad or other bridge shall, after receiving notice to that effect, as hereinbefore required, from the Secretary of Transportation, and within the time prescribed by him willfully fail or refuse to remove the same or to comply with the lawful order of the Secretary of Transportation in the premises, such persons, corporation, or association shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine not exceeding $5,000, and every month such persons, corporation, or association shall remain in default in respect to the removal or alternation of such bridge shall be deemed a new offense, and subject the persons, corporation, or association so offending to the penalties above prescribed.

[(b) PROPER REPAIR REQUIREMENT.—No owner or operator of any bridge, drawbridge, or causeway shall endanger, unreasonably obstruct, or make hazardous the free navigation of any navigable

water of the United States by reason of the failure to keep the bridge, drawbridge, or causeway and any accessory works in proper repair.

[(c) CIVIL PENALTIES FOR VIOLATION; SEPARATE OFFENSES; NOTICE AND HEARING; ASSESSMENT, COLLECTION, AND REMISSION; CIVIL ACTIONS.—Whoever violates an provision of this section, or any order issued under this section, shall be liable to a civil penalty of not more than $1,000. Each day a violation continues shall be deemed a separate offense. No penalty may be assessed under this subsection until the person charged is given notice and an opportunity for a heairng on the charge. The Secretary of Transportation may assess and collect any civil penalty incurred under this subsection and, in his discretion, may remit, mitigate, or compromise any penalty until the matter is referred to the Attorney General. If a person against whom a civil penalty is assessed under this subsection fails to pay that penalty, an action may be commenced in the district court of the United States for any district in which the violation occurs for such penalty.]

(a) Whenever the Secretary of the Army shall have good reason to believe that any railroad or other bridge now constructed, or which may hereinafter be constructed, over any of the navigable waterways of the United States is an unreasonable obstruction to the free navigation of such waters on account of insufficent height, width or span, or otherwise, or where there is difficulty in passing the draw opening or the draw span of such bridge by rafts, steamboats, or other water craft, it shall be the duty of the Secretary of the Army, first giving the parties reasonable opportunity to be heard, to give notice to the persons or corporations owning or controlling such bridge so to alter the same as to render navigation through or under it reasonable free, easy, and unobstructed; and in giving such notice the Secretary shall specify the changes that are required to be made, and shall prescribe in each case a reasonable time in which to make them. If at the end of such time the alteration has not been made, the Secretary of the Army shall forthwith notify the United States Attorney for the district in which such bridge is situated, to the end that the criminal proceedings hereinafter mentioned may be taken. If the persons, corporation, or association owning or controlling any railroad or other bridge shall, after receiving notice to that effect, as hereinafter required, from the Secretary of the Army, and within the time prescribed by the Secretary willfully fail or refuse to remove the same or to comply with the lawful order of the Secretary of the Army in the premises, such persons, corporation, or association commits a class C misdemeanor, and every month such persons, corporation, or association shall remain in default in respect to the removal or alteration of such bridge, shall be deemed a new offense, and subject such persons, corporation, or association so offending to the penalties above prescribed.

(b) No owner or operator of any bridge, drawbridge, or causeway shall endanger, unreasonably obstruct, or make hazardous the free navigation of any navigable water of the United States by reason of the failure to keep the bridge, drawbridge, or causeway and any accessory works in proper repair.

(c) Whoever violates any provision of this section, or any order issued under this section, shall be liable to a civil penalty of not

more than $1,000. Each day a violation continues shall be deemed a separate offense. No penalty may be assessed under this subsection until the person charged is given notice and an opportunity for a hearing on the charge. The Secretary of the Army may assess and collect any civil penalty incurred under this subsection and, in the Secretary's discretion, may remit, mitigate, or compromise any penalty until the matter is referred to the Attorney General. If a person against whom a civil penalty is assessed under this subsection fails to pay that penalty, an action may be commenced in the district court of the United States for any district in which the violation occurs for such penalty.

(d) In the case of a bridge or causeway in or over the Saint Lawrence Seaway, the authority in this section shall be exercised by the Secretary of Transportation instead of the Secretary of the Army.

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33 U.S.C. 511

DEFINITIONS

[When used in this subchapter, unless the context indicates otherwise—

[The term "alteration" includes changes of any kind, reconstruction, or removal in whole or in part.

[The term "bridge" means a lawful bridge over navigable waters of the United States, including approaches, fenders, and appurtenances thereto, which is used and operated for the purpose of carrying railroad traffic, or both railroad and highway traffic, or if a State, county, municipality, or other political subdivision is the owner or joint owner thereof, which is used and operated for the purpose of carrying highway traffic.

[The term "bridge owner" means any State, county, municipality, or other political subdivision, or any corporation, association, partnership, or individual owning, or jointly owning, any bridge, and, when any bridge shall be in the possession or under the control of any trustee, receiver, trustee in a case under Title 11, or lessee, such term shall include both the owner of the legal title and the person or the entity in possession or control of such bridge.

[The term "Secretary" means the Secretary of Transportation.

[The term "United States", when used in a geographical sense, includes the Territories and possessions of the United States.]

When used in this Act, unless the context indicates otherwise—

(1) The term "alteration" includes changes of any kind, reconstruction, or removal in whole or in part.

(2) The term "bridge" means a lawful bridge over navigable waters of the United States, including approaches, fenders, and appurtenances thereto, which is used and operated for the purpose of carrying railroad traffic or both railroad and highway traffic, or if a State, county, municipality, or other political subdivision is the owners or joint owner thereof, which is used and operated for the purpose of carrying highway traffic.

(3) The term "bridge owner" means any State, county, municipality, or other political subdivision, or any corporation, association, partnership, or individual owning, or jointly owning, any bridge, and, when any bridge shall be in the possession or under the control of any trustee, receiver, trustee in a case under title 11 of the United States Code, or lessee, such term shall include both the owner of the legal title and person or the entity in possession or control of such bridge.

(4) The term "Secretary" means the Secretary of the Army, except in the case of a bridge over the Saint Lawrence Seaway, in which case it means the Secretary of Transportation.

(5) The term "United States", when used in a geographical sense, includes the Territories and possessions of the United States.

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33 U.S.C. 514

SUBMISSION AND APPROVAL OF GENERAL PLANS AND SPECIFICATIONS

[After the service of an order under this subchapter, it shall be the duty of the bridge owner to prepare and submit to the Secretary of Transportation, within a reasonable time as prescribed by the Secretary, general plans and specifications to provide for the alteration of such bridge in accordance with such order, and for such additional alteration of such bridge as the bridge owner may desire to meet the necessities of railroad or highway traffic, or both. The Secretary may approve or reject such general plans and specifications, in whole or in part, and may require the submission of new or additional plans and specifications, but when the Secretary shall have approved general plans and specifications, they shall be final and binding upon all parties unless changes therein be afterward approved by the Secretary and the bridge owner.]

After the service of an order under this Act, it shall be the duty of the bridge owner to prepare and submit to the Secretary, within a reasonable time as prescribed by the Secretary, general plans and specifications to provide for the alteration of such bridge in accordance with such order, and for such additional alteration of such bridge as the bridge owner may desire to meet the necessities of railroad or highway traffic, or both. The Secretary may approve or reject such general plans and specifications, in whole or in part, and may require the submission of new or additional plans and specifications, but when the Secretary shall have approved general plans and specifications, they shall be final and binding upon all parties unless changes therein be afterwards approved by the Secretary and the bridge owner.

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33 U.S.C. 517

PAYMENT OF SHARE OF UNITED STATES

[Following service of the order requiring alteration of the bridge, the Secretary of Transportation may make partial payments as the work progresses to the extent that funds have been appropriated. The total payments out of Federal funds shall not

exceed the proportionate share of the United States of the total cost of the project paid or incurred by the bridge owner, and if such total cost exceeds the cost guaranteed by the bridge owner, shall not exceed the proportionate share of the United States of such guaranteed cost, except that if the cost of the work exceeds the guaranteed cost by reason of emergencies, conditions beyond the control of the owner, or unforeseen or undetermined conditions, the Secretary of Transportation may, after full review of all the circumstances, provide for additional payments by the United States to help defray such excess cost to the extent he deems to be reasonable and proper, and shall certify such additional payments to the Secretary of the Treasury for payment. All payments to any bridge owner herein provided for shall be made by the Secretary of the Treasury through the Fiscal Service upon certifications of the Secretary of Transportation.]

Following service of the order requiring alteration of the bridge, the Secretary may make partial payments as the work progresses to the extent that funds have been appropriated. The total payments out of Federal funds shall not exceed the proportionate share of the United States of the total cost of the project paid or incurred by the bridge owner, and if such total cost exceeds the cost guaranteed by the bridge owner, shall not exceed the proportionate share of the United States of such guaranteed cost, except that if the cost of the work exceeds the guaranteed cost by reason of emergencies, conditions beyond the control of the owner, or unforeseen or undetermined conditions, the Secretary may, after full review of all the circumstances, provide for additional payments by the United States to help defray such excess cost to the extent the Secretary deems it to be reasonable and proper, and shall certify such additional payments to the Secretary of the Treasury for payment. All payments made to any bridge owner herein provided for shall be made by the Secretary of the Treasury upon certifications of the Secretary.

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33 U.S.C. 523

RELOCATION OF BRIDGES

[If the owner of any bridge and the Secretary shall agree that in order to remove an obstruction to navigation, or for any other purpose, a relocation of such bridge or the construction of a new bridge upon a new location would be preferable to an alteration of the existing bridge, such relocation or new construction may be carried out at such new site and upon such terms as may be acceptable to the bridge owner and the Secretary, and the cost of such relocation or new construction, including also any expense of changes in and additions to rights-of-way, stations, tracks, spurs, sidings, switches, signals, and other railroad facilities and property, and relocation of shippers required for railroad connection with the bridge at the new site, shall be apportioned as between the bridge owner and the United States in the manner which is provided for in section 516 of this title in the case of an alteration and the share of the United States paid from the appropriation authorized in section 518 of this title: *Provided*, That nothing in this section shall be construed as requiring the United States to pay any part of the ex-

pense of building any bridge across a navigable stream which the Secretary of Transportation shall not find to be, in fact, a relocation of an existing bridge.]

If the owner of any bridge and the Secretary shall agree that in order to remove an obstruction to navigation, or for any other purpose, a relocation of such bridge or the construction of a new bridge upon a new location shall be preferable to an alteration of the existing bridge, such relocation or new construction may be carried out at such new site and upon such terms as may be acceptable to the bridge owner and the Secretary, and the cost of such relocation or new construction, including also any expense of changes in and additions to rights-of-way, stations, tracts, spurs, sidings, switches, signals, and other railroad facilities and property, and relocation of shippers required for railroad connection with the bridge at the new site, shall be apportioned as between the bridge owner and the United States in the manner which is provided for in section 6 of this Act (33 U.S.C. 516) in the case of an alteration and the share of the United States paid from the appropriation authorized in section 8 of this Act (33 U.S.C. 518): Provided, That nothing in this section shall be construed as requiring the United States to pay any part of the expense of building any bridge across a navigable stream which the Secretary shall not find to be, in fact, a relocation of the existing bridge.

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33 U.S.C. 525

CONSTRUCTION AND OPERATION OF BRIDGES

[(a) CONSENT OF CONGRESS.—The consent of Congress is hereby granted for the construction, maintenance, and operation of bridges and approaches thereto over the navigable waters of the United States, in accordance with the provisions of this subchapter.

[(b) APPROVAL OF PLANS.—The location and plans for such bridges shall be approved by the Secretary of Transportation before construction is commenced, and, in approving the location and plans of any bridge, the Secretary may impose any specific conditions relating to the maintenace and operation of the structure which the Secretary may deem necessary in the interest of public navigation and the conditions so imposed shall have the force of law. This subsection shall not apply to any bridge over waters which are not subject to the ebb and flow of the tide and which are not used and are not susceptible to use in their natural condition or by reasonable improvement as a means to transport interstate or foreign commerce.

[(c) PRIVATE HIGHWAY TOLL BRIDGES.—Notwithstanding the provisions of subsections (a) and (b) of this section it shall be unlawful to construct or commence the construction of any privately owned highway toll bridge until the locations and plans thereof shall also have been submitted to and approved by the highway department or departments of the State or States in which the bridge and its approaches are situated; and where such bridge shall be between two or more States and the highway departments thereof shall be unable to agree upon the location and plans therefor, or if they, or either of them, shall fail or refuse to act upon the location and

plans submitted, such location and plans then shall be submitted to the Secretary of Transportation and, if approved by the Secretary of Transportation, approval by the highway departments shall not be required.]

(a) CONSENT OF CONGRESS.—The consent of Congress is hereby granted for the construction, maintenance, and operation of bridges and approaches thereto over the navigable waters of the United States, in accordance with the provisions of this title.

(b) APPROVAL OF PLANS.—The location and plans for such bridges shall be approved by the Secretary of the Army before construction is commenced, and, in approving the location and plans of any bridge, the Secretary may impose any specific conditions relating to the maintenance and operation of the structure which the Secretary may deem necessary in the interest of public navigation, and the conditions so imposed shall have the force of law. In the case of a bridge over the Saint Lawrence Seaway, the authority in this subsection shall be exercised by the Secretary of Transportaion instead of the Secretary of the Army. This subsection shall not apply to any bridge over waters which are not subject to the ebb and flow of the tide and which are not used and are not susceptible to use in their natural condition or by reasonable improvement as a means to transport interstate or foreign commerce.

(c) PRIVATE HIGHWAY TOLL BRIDGES.—Notwithstanding the provisions of subsections (a) and (b) of this section, it shall be unlawful to construct or commence the construction of any privately owned highway toll bridge until the location and plans thereof shall also have been submitted to and approved by the highway department or departments of the State or States in which the bridge and its approaches are situated: and where such bridge shall be between two or more States and the highway departments thereof shall be unable to agree upon the location and plans therefor, or if they, or either of them, shall fail or refuse to act upon the location and plans submitted, such location and plans then shall be submitted to the Secretary of the Army and, if approved by the Secretary of the Army, approval by the highway departments shall not be required.

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33 U.S.C. 533

PENALTIES FOR VIOLATIONS

[(a) CRIMINAL PENALTIES FOR VIOLATION.—Any person who willfully fails or refuses to comply with any lawful order of the Secretary of Transportation or the Chief of Engineers issued under the provisions of this subchapter or who willfully fails to comply with any specific condition imposed by the Chief of Engineers and the Secretary of Transportation relating to the maintenance and operation of bridges, or who willfully refuses to produce books, papers, or documents in obedience to a subpena or other lawful requirement under this subchapter, or who otherwise willfully violates any provisions of this subchapter, shall, upon conviction thereof, be punished by a fine of not to exceed $5,000 or by imprisonment for not more than one year, or by both such fine and imprisonment.

[(b) CIVIL PENALTIES FOR VIOLATION; SEPARATE OFFENSES; NOTICE AND HEARING; ASSESSMENT, COLLECTION, AND REMISSION; CIVIL AC-

TIONS.—Whoever violates any provision of this subchapter, or any order issued under this subchapter, shall be liable to a civil penalty of not more than $1,000. Each day a violation continues shall be deemed a separate offense. No penalty may be assessed under this subsection until the person charged is given notice and an opportunity for a hearing on the charge. The Secretary of Transportation may access and collect any civil penalty incurred under this subsection and, in his discretion, may remit, mitigate, or compromise any penalty until the matter is referred to the Attorney General. If a person against whom a civil penalty is assessed under this subsection fails to pay that penalty, an action may be commenced in the district court of the United States for any district in which the violation occurs for such penalty.]

(a) Any person who willfully fails or refuses to comply with any lawful order of the Secretary of the Army or the Secretary of Transportation issued under the provisions of this title, or who willfully fails to comply with any specific conditions imposed by the Secretary of the Army or the Secretary of Transportation relating to the maintenance and operation of bridges, or who willfully refuses to produce books, papers, or documents in obedience to a subpoena or other lawful requirement under this title, or who otherwise willfully violates any provision of this title, commits a class A misdemeanor.

(b) Whoever violates any provision of this Act, or any order issued under this Act, shall be liable to a civil penalty of not more than $1,000. Each day a violation continues shall be deemed a separate offense. No penalty may be assessed under this subsection until the person charged is given notice and an opportunity for a hearing on the charge. The Secretary responsible for the provision or order violated may assess and collect the civil penalty incurred under this subsection and, in the Secretary's discretion, may remit, mitigate, or compromise the penalty until the matter is referred to the Attorney General. If a person against whom a civil penalty is assessed under this subsection fails to pay that penalty, an action may be commenced in the district court of the United States for any district in which the violation occurs for such penalty.

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33 U.S.C. 535

CONGRESSIONAL CONSENT TO CONSTRUCTION, MAINTENANCE, AND OPERATION OF INTERNATIONAL BRIDGES; CONDITIONS OF CONSENT

[The consent of Congress is hereby granted to the construction, maintenance, and operation of any bridge and approaches thereto, which will connect the United States with any foreign country (hereinafter in this subchapter referred to as an "international bridge") and to the collection of tolls for its use, so far as the United States has jurisdiction. Such consent shall be subject to (1) the approval of the proper authorities in the foreign country concerned; (2) the provisions of sections 401 to 498 of this title, except section 496 of this title, whether or not such bridge is to be built across or over any of the navigable waters of the United States; and (3) the provisions of this subchapter.]

The consent of Congress is hereby granted to the construction, maintenance, and operation of any bridge and approaches thereto,

which will connect the United States with any foreign country (hereinafter in this Act referred to as an "international bridge") and to the collection of tolls for its use, so far as the United States has jurisdiction. Such consent shall be subject to (1) the approval of the proper authorities in the foreign country concerned; (2) the provisions of the Act entitled "An Act to regulate the construction of bridges over navigable waters", approved March 23, 1906 (33 U.S.C. 491–498), except section 6 (33 U.S.C. 496), whether or not such bridge is to be built across or over any of the navigable waters of the United States; and (3) the provisions of this subchapter. In the case of a bridge over the Saint Lawrence Seaway, and in the case of a bridge which would not otherwise be subject to the Act of March 23, 1906, the authority of the Secretary of the Army in this section shall be exercised by the Secretary of Transportation instead of the Secretary of the Army.

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33 U.S.C. 535c

SECRETARY OF TRANSPORTATION'S APPROVAL; COMMENCEMENT AND COMPLETION REQUIREMENTS; EXTENSION OF TIME LIMITS

[The approval of the Secretary of Transportation, as required by section 491 of this title, shall be given only subsequent to the President's approval, as provided for in section 535b of this title, and shall be null and void unless the construction of the bridge is commenced within two years and completed with five years from the date of the Secretary's approval: *Provided, however,* That the Secretary, for good cause shown, may extend for a reasonable time either or both of the time limits herein provided.]

The approval of the Secretary of the Army or the Secretary of Transportation as required by the first section of the Act of March 23, 1906 (33 U.S.C. 491), and section 2 of this Act (33 U.S.C. 535) shall be given only subsequent to the President's approval, as provided for in section 4 of this Act, and shall be null and void unless the construction of the bridge is commenced within two years and completed within five years from the date of the Secretary's approval: Provided, however, That the Secretary concerned, for good cause shown, may extend for a reasonable time either or both of the time limits herein provided.

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33 U.S.C. 535h

REPORT OF SECRETARY OF TRANSPORTATION'S APPROVAL DURING FISCAL YEAR

[The Secretary of Transportation shall make a report of all approvals granted by him during the fiscal year pursuant to section 535c of this title in each annual report of the activities of the Department required by section 308(a) of Title 49.]

The Secretary of the Army and the Secretary of Transportation shall each make an annual report of approvals granted by them under sections 2 and 5 of this Act (33 U.S.C. 535 and 535c).

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14 U.S.C. 662

REQUIREMENT FOR PRIOR AUTHORIZATION OF APPROPRIATIONS

Amounts may be appropriated to or for the use of the Coast Guard for the following matters only if the amounts have been authorized by law after December 31, 1976:

(1) For the operation and maintenance of the Coast Guard.

(2) For the acquisition, construction, rebuilding, and improvement of aids to navigation, shore or offshore establishments, vessels, or aircraft, including equipment related to the aids, establishments, vessels, or aircraft.

[(3) For altering obstructive bridges.]

[(4)] *(3)* For research, development, test, or evaluation related to a matter referred to in [clauses (1)–(3).] *paragraph (1) or (2).*

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